

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

LESLIE MCGINNIS,

Plaintiff,

Case No. 16-cv-13461

v.

Honorable Thomas L. Ludington

HUQ, et al,

Defendants.

**ORDER DENYING MOTION TO STAY THE PROCEEDINGS, TO REMAND, TO
COMPEL DEFENDANTS TO PRODUCE THE MISSING DOCUMENTS, AND TO
ALLOW PLAINTIFF TO RESPOND TO SUCH DISCOVERY IN A NEW SUMMARY
JUDGMENT REPLY AND THEN ORDER THE MAGISTRATE TO SUBMIT A NEW
REPORT AND RECOMMENDATION AND DENYING MOTION TO ALTER, AMEND,
OR FOR RECONSIDERATION OF JUDGE LUDINGTON'S ORDER DISMISSING HIS
CASE**

On September 23, 2016, Plaintiff Leslie McGinnis filed a complaint asserting deliberate indifference and excessive force claims against Defendants, staff members at the Wayne County Jail. ECF No. 1. Plaintiff is currently incarcerated and representing himself pro se. On January 3, 2017, this case was referred to Magistrate Judge David R. Grand. ECF No. 9. Defendants filed a motion for summary judgment on December 12, 2017. ECF No. 35. On April 30, 2018, Judge Grand issued a report recommending that the motion for summary judgment be granted and the complaint be dismissed. ECF No. 68.

On May 21, 2018, the Court received a letter from Plaintiff dated May 16, 2018. In the letter, Plaintiff requested a sixty day extension of the deadline to object to the report and recommendation. He explained that he "had problems accessing the library" and computer. ECF No. 70. The Court construed the letter as a request for an extension of time to object to the report and recommendation and granted it in part. The Court reasoned: "A thirty day extension will be

sufficient for Plaintiff to evaluate the report and recommendation and determine whether any specific and palpable errors are contained within.” *Id.*

The next month, the Court received a letter from Plaintiff dated June 16, 2018. ECF No. 71. In it, he requested another extension to file his objections to Judge Grand’s recommendation. *Id.* The request was denied because Plaintiff provided an insufficient explanation as to why he could not submit his objections within the previous 30-day extension. On June 28, 2018, Judge Grand’s report was adopted and Plaintiff’s claim was dismissed. ECF Nos. 72, 73.

On July 2, 2018, Plaintiff filed a “Motion to Stay the Proceedings, to Remand, to Compel Defendants to Produce the Missing Documents, and to Allow Plaintiff to Respond to Such Discovery in A New Summary Judgment Reply and then Order the Magistrate to Submit a New Report and Recommendation.” ECF No. 75. On July 23, 2018, Plaintiff filed a “Motion to Alter, Amend, or for Reconsideration of Judge Ludington’s Order Dismissing His Case.” ECF No. 77. Plaintiff’s arguments have already been addressed by the Court. For this reason, both motions will be denied.

I.

Plaintiff first claims that Defendants did not provide him with the discovery documents he requested. ECF No. 75 at 2–3; ECF No. 77 at 5. However, he previously filed a motion to compel on this same issue and Judge Grand denied the motion. ECF No. 44. Related to this, Plaintiff alleges that Ms. Hammond should be sanctioned for not producing evidence. ECF No. 75 at 5; ECF No. 77 at 13. However, Plaintiff presents no evidence to support this claim. He simply reiterates the arguments he previously presented to Judge Grand.

Plaintiff further argues that he was improperly denied appointment of counsel. ECF No. 75 at 3. Judge Grand already addressed and denied Plaintiff’s motions for appointment of council.

ECF No. 26; ECF No. 55. Plaintiff has not presented any novel arguments as to why denial of these motions was improper. Plaintiff also claims that he was unable to present expert medical testimony because the court closed discovery. *Id.* However, at Plaintiff's request, Judge Grand granted a 60-day extension to the length of discovery. ECF No. 31. Plaintiff had adequate time to conduct discovery.

Finally, Plaintiff argues that he was unable to submit his objections to Judge Grand's recommendation because of the prison librarian. ECF No. 75 at 6–7; ECF No. 77 at 10–12. Plaintiff presented this same argument when he requested an extension to file his objections. ECF No. 72. His request was denied and he will not now be permitted to present objections to the recommendation when the Court has already deemed them untimely.

II.

Accordingly, it is **ORDERED** that Plaintiff's Motion to Stay the Proceedings, to Remand, to Compel Defendants to Produce the Missing Documents, and to Allow Plaintiff to Respond to Such Discovery in A New Summary Judgment Reply and then Order the Magistrate to Submit a New Report and Recommendation, ECF No. 75, is **DENIED**.

Furthermore, it is **ORDERED** that Plaintiff's Motion to Alter, Amend, or for Reconsideration of Judge Ludington's Order Dismissing His Case, ECF No. 77, is **DENIED**.

Dated: October 30, 2018

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on October 30, 2018.

s/Kelly Winslow
KELLY WINSLOW, Case Manager